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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 ANTHONY CORNELIUS ROWE,

12 Petitioner,

13 v.

14 BRUNO STOLC,

15 Respondent.
16

Case No. C09-5770RJB/JRC

REPORT AND
RECOMMENDATION

**NOTED FOR:
February 12, 2010**

17 This habeas corpus action, filed pursuant to 28 U. S.C. §2254, has been referred to the
18 undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636 (b)(1)(B) and
19 Local Magistrate Judge's Rules MJR 3 and MJR 4. Petitioner seeks relief from Pierce County
20 convictions for one count of Rape of a Child in the First Degree, one count of Rape of a Child in
21 the Second Degree, and one count of Possession of Depictions of a Minor Engaged in Sexually
22 Explicit Conduct. He was sentenced to 171 months to life in 2005 (Dkt. # 2, proposed petition
23 page 1).
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25 Petitioner has filed an application to proceed in forma pauperis and indicates he has forty
26 dollars and fifty-one cents (\$40.51) in his spendable account (Dkt. # 1). In addition, petitioner

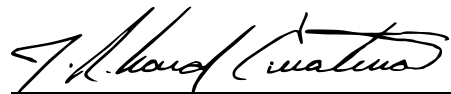
1 indicates he makes two dollars (\$2.00) a day working at the facility. The cost of filing a habeas
2 petition is five dollars (\$5.00).

3 The district court may permit indigent litigants to proceed in forma pauperis upon
4 completion of a proper affidavit of indigence. See 28 U.S.C. § 1915(a). However, the court has
5 broad discretion in denying an application to proceed in forma pauperis. Weller v. Dickson, 314
6 F.2d 598 (9th Cir. 1963), cert. denied, 375 U.S. 845 (1963). Petitioner has the funds needed for
7 full payment, his application should be denied. Petitioner should be given thirty days to pay the
8 full filing fee.
9

10 CONCLUSION

11 Petitioner has the funds to pay the filing fee in this case and his application should be
12 DENIED. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil
13 Procedure, the parties shall have fourteen (14) days from service of this Report to file written
14 objections. *See also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those
15 objections for purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the
16 time limit imposed by Rule 72(b), the clerk is directed to set the matter for consideration on
17 February 12, 2010, as noted in the caption.
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19 DATED this 20th day of January, 2010.
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22 J. Richard Creatura
23 United States Magistrate Judge
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